

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Joel Marrero	Team: Team # 7	CCRB Case #: 200401610	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 01/20/2004 2:00 PM	Location of Incident: § 87(2)(b)	Precinct: 07	18 Mo. SOL 7/20/2005	EO SOL 7/20/2005	
Date/Time CV Reported Fri, 02/20/2004 4:18 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 02/20/2004 4:19 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Christopher Stilianesis	02657	918367	PSA 4
2. CPT Edward Britton	00000	873472	PSA 4
3. CPT Steven Rubin	00000	896674	PSA 4

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Diane Bibby	05603	923557	PSA 4
2. POM Anthony Cracchiolo	12844	924149	PSA 4
3. POM Robert Cardona	26607	928019	PSA 4

Officer(s)	Allegation	Investigator Recommendation
A.SGT Christopher Stilianesis	Abuse: Sgt. Christopher Stilianesis arrested § 87(2)(b)	
B.CPT Edward Britton	Abuse: Captain Edward Britton authorized the entry into § 87(2)(b)	
C.CPT Steven Rubin	Abuse: Captain Steven Rubin authorized the entry into § 87(2)(b)	

Synopsis

On January 20, 2004 at around 1:00 p.m. § 87(2)(b) and § 87(2)(b) got into a verbal dispute on the first floor in front of § 87(2)(b) at § 87(2)(b). § 87(2)(b) went to her apartment on the fifth floor and called 911 to complain that § 87(2)(b) had threatened to strike her with a pipe. PO Diane Bibby and PO Robert Cardona responded to the call and went to § 87(2)(b) apartment to obtain her version of the incident. § 87(2)(b) refused to open her apartment as she slipped under her door. Numerous prior housing complaints she had filed against § 87(2)(b) PO Bibby and PO Cardona called Sgt. Christopher Stilianesis to the scene. Sgt. Stilianesis instructed § 87(2)(b) to open her door, as she was still slipping complaints under her apartment door. § 87(2)(b) § 87(2)(b) common-law husband § 87(2)(b) exited § 87(2)(b) apartment § 87(2)(b) § 87(2)(b) allegedly refused to aid Sgt. Stilianesis, and Sgt. Stilianesis then arrested § 87(2)(b). At this point Sgt. Stilianesis threatened to break § 87(2)(b) door if she failed to open the door, but there was no response. Sgt. Stilianesis then called Captain Steven Ruben, Captain Edward Britton, and ESU to the location to enter § 87(2)(b) apartment. ESU forcibly entered § 87(2)(b) under Capt. Ruben and Capt. Britton's authority, and discovered that § 87(2)(b) escaped through one of the apartment windows.

§ 87(2)(b) was charged with § 87(2)(b)

§ 87(2)(g)

Summary of Complaint

On January 20, 2004 § 87(2)(b) called 911 at 1:26 p.m. to make a cross complaint against § 87(2)(b) and § 87(2)(b) and stated, "I have police banging down my door, a woman came down from the § 87(2)(b) floor while I was vacuuming and she came threatening me, I have harassment reports, I have police incident reports. I have police breaking down my door." The operator asked § 87(2)(b) to open the door and § 87(2)(b) replied, "no there is going to be a false charge on me." § 87(2)(b) then asked to be connected to the commissioner's office. § 87(2)(b) then said that she was going to call One Police Plaza and then hung up the phone. (Enclosure 12)

§ 87(2)(b) filed this complaint with the CCRB on February 20, 2004 via e-mail. § 87(2)(b) alleged that officers forcibly entered her home and arrested § 87(2)(b) in retaliation to the fact that she was not inside her home when the entry was made. (Enclosures 13 A-C, 15 A-B)

On January 20, 2004 at around 1:00 p.m. § 87(2)(b) got into a verbal dispute in front of her apartment door with § 87(2)(b) § 87(2)(b) a resident of the § 87(2)(b) floor. § 87(2)(b) § 87(2)(b) s common-law husband, was taking a shower while § 87(2)(b) argued with § 87(2)(b) § 87(2)(b) § 87(2)(b) maintained that the dispute did not escalate into a physical altercation, § 87(2)(b) § 87(2)(b) left the 2nd floor, and § 87(2)(b) returned to her apartment. Several minutes later § 87(2)(b) heard pounding on her apartment door and a male officer yelled, "police open up." Through the apartment door § 87(2)(b) told the officers that she was the victim and did not want to open the door. The officers insisted that she open the door, but § 87(2)(b)

refused because she was afraid that she would be arrested. § 87(2)(b) stated that she called One Police Plaza and PSA 4 to complain that officers were going to break her door down. § 87(2)(b) informed the officers that she filed harassment reports on prior occasions against § 87(2)(b) and slipped copies of the reports under her apartment door to indicate that she has had an ongoing problem with § 87(2)(b).

§ 87(2)(b) § 87(2)(b) exited the apartment § 87(2)(b) on his way to work and spoke with the officers. § 87(2)(b) did not exit the apartment and locked the door behind § 87(2)(b). § 87(2)(b) heard a male officer ask § 87(2)(b) if she was on medication. § 87(2)(b) replied, "I don't have anything to do with this, this is between § 87(2)(b) and that woman § 87(2)(b). § 87(2)(b) stated that a male officer knocked on her door and threatened to break it down. A minute later § 87(2)(b) observed from her apartment window that two uniformed officers escort § 87(2)(b) out of § 87(2)(b) although he was not handcuffed and was placed inside a parked RMP. § 87(2)(b) opened her door, did not see any officers in the hallway, left her apartment and went to a neighbor's apartment. § 87(2)(b) called § 87(2)(b) on his cell phone from the friend's apartment. § 87(2)(b) told § 87(2)(b) to come to the front of § 87(2)(b) where the officers were because he was going to be arrested if she did not exit the building, although he did not tell her where he was or if he was under arrest. § 87(2)(b) did not exit the building because she was afraid of being arrested. § 87(2)(b) left her friend's apartment and went to another friend's apartment. From the other friend's apartment she observed several police cars and an ESU unit in front of § 87(2)(b). § 87(2)(b) spent the evening at a friend's home and went to housing management the following day when she discovered that her door was already replaced. Detectives from the 7th Precinct detective's squad called § 87(2)(b) down to the 7th Precinct on January 26, 2004, where she was arrested.

Victim's statement

§ 87(2)(g)
§ 87(2)(b) corroborated § 87(2)(b) account that she called numerous agencies to complain about § 87(2)(b) and the officers at her door. When § 87(2)(b) exited the apartment Sgt. Stilianesis asked him, "is § 87(2)(b) on medication?" § 87(2)(b) asked Sgt. Stilianesis where he received that information and Sgt. Stilianesis replied, "there was a complaint made about this address." Sgt. Stilianesis wanted to speak with § 87(2)(b) and § 87(2)(b) asked § 87(2)(b) to come out and speak with the officers. § 87(2)(b) refused to speak with the officers, Sgt. Stilianesis banged on the door and then threatened to bust her door down. § 87(2)(b) meanwhile was slipping harassment reports under her door and § 87(2)(b) picked up the reports because Sgt. Stilianesis did not want to review them. Sgt. Stilianesis then asked § 87(2)(b) to exit the building and sit inside a marked RMP, although § 87(2)(b) was not handcuffed. § 87(2)(b) stated that when he reached the RMP PO Bibby drove away from the location, but returned a second later. When § 87(2)(b) returned he saw two ESU units, a fire truck, an EMS unit, twelve uniformed officers, and two captains, one who he identified as Capt. Edward (later identified as Capt. Britton) and the other captain later identified as Capt. Ruben. § 87(2)(b) received a call from § 87(2)(b) and he told her to come down stairs or he would be arrested, but she did not indicate where she was and refused to exit the building. Several minutes later Sgt. Stilianesis asked § 87(2)(b) to exit the RMP and told him that he was under arrest for § 87(2)(b). § 87(2)(b) was charged with § 87(2)(b).
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

(Enclosures 17 A-B)

Witness Statement

The Sprint Report indicates that on January 20, 2004 at 1:00 p.m. § 87(2)(b) § 87(2)(b) called. The 911 operator asked what was the emergency and § 87(2)(b) § 87(2)(b) calmly stated, "it is not an emergency." § 87(2)(b) § 87(2)(b) complained, "there is a resident on the first floor, I don't know what is wrong with her, if she didn't take her medication, but she threatened me with bodily harm. I am disabled, this is the fourth time she has threatened me with bodily harm, she came out with a pipe, I'm tired of her. I was told that the next time she does that to call to get an order of protection." The UF 61 generated by PO Bibby names § 87(2)(b) § 87(2)(b) as the complainant and provides her home address and phone number. The report notes, "deft § 87(2)(b) did threaten her 'you gonna get yours' while waving a stick in her hand while coming towards her. She § 87(2)(b) § 87(2)(b) also stated that she c/v knew she didn't want her on the floor and that Napoleon has her picture and she was

going to get it.” The CCRB called § 87(2)(b), the phone at her residence, numerous times and left messages on her phone. As of May 10, 2004 § 87(2)(b) telephone was disconnected. The CCRB also sent a letter to § 87(2)(b) home and she subsequently called the CCRB. § 87(2)(b) left a message on August 5, 2004 in which she stated that she has had an ongoing problem with § 87(2)(b) § 87(2)(b) called § 87(2)(b) “crazy,” although § 87(2)(b) seemed very agitated. § 87(2)(b) did not provide a call back number and has not contacted the CCRB since. (Enclosure 11)

Results of Investigation

Officer Identification

§ 87(2)(b) identified PO Bibby, and upon referring to the command log, Sgt. Stilianesis the patrol supervisor. Sgt. Stilianesis identified PO Cracchiolo, PO Cardona, Capt. Ruben, and Capt. Britton.

Time Line

The following time line was established as indicated in the Sprint Report and PO Bibby's and PO Cardona's memo books. PO Bibby's and PO Cardona's memo books note that they received this job at 12:40 p.m., interviewed § 87(2)(b) at 12:50 p.m., and shortly afterwards proceeded to § 87(2)(b) apartment. The sprint report, however, indicates that § 87(2)(b) § 87(2)(b) called 911 at 1:00 p.m., § 87(2)(g) § 87(2)(b). § 87(2)(b) § 87(2)(b) called 911 at around 1:26 p.m., and at around 1:29 p.m. Sgt. Stilianesis arrived at the location. At 2:06 p.m. Sgt. Stilianesis called ESU to the location, ESU arrived at 2:14 p.m., at 2:30 p.m. EMS was called to the location, and at 2:36 p.m. EMS arrived. At 2:40 p.m. ESU entered the apartment and determined that § 87(2)(b) § 87(2)(b) fled the apartment. The Sprint Report indicates that at 3:10 p.m. § 87(2)(b) § 87(2)(b) was under arrest.

PO Bibby and PO Cardona

PO Bibby was interviewed on April 12, 2004 and PO Cardona was re-interviewed on May 7, 2004 because his initial CCRB statement was recorded on a defective tape. § 87(2)(g)

§ 87(2)(b) In § 87(2)(b) Arrest Report § 87(2)(b) OLBS, and Complaint Report § 87(2)(b) PO Bibby indicated in the report that § 87(2)(b) was charged with § 87(2)(a) 160.50

§ 87(2)(b) and explained, “§ 87(2)(a) 160.50

§ 87(2)(b) PO Bibby noted a similar narrative in the complaint report. (Enclosures 34, 32 A-B)

On January 21, 2004 PO Bibby prepared the Supporting deposition, in which she indicated, “§ 87(2)(a)
 [REDACTED]
 [REDACTED]
 [REDACTED]”

On January 20, 2004 at around 12:40 p.m. PO Bibby and PO Cardona received a radio call about harassment between tenants at § 87(2)(b). PO Bibby and PO Cardona interviewed § 87(2)(b) § 87(2)(b) who alleged that § 87(2)(b) threatened to strike her with a vacuum apparatus in front of § 87(2)(b) on the § 87(2)(b) floor. PO Cardona stated that § 87(2)(b) § 87(2)(b) alleged that § 87(2)(b) threatened to strike her with a stick. § 87(2)(b) § 87(2)(b) explained that the dispute with § 87(2)(b) was ongoing.

PO Bibby and PO Cardona proceeded to § 87(2)(b) § 87(2)(b) residence, where they knocked on the door, identified themselves as officers, and asked § 87(2)(b) to open the door. PO Bibby and PO Cardona knocked on § 87(2)(b) door and asked her to exit numerous times, but each time § 87(2)(b) refused. PO Bibby believed that § 87(2)(b) was not acting irrational as much as she was afraid of being arrested. PO Cardona stated that § 87(2)(b) complained that she was the victim in the case. PO Cardona described § 87(2)(b) as irate and “acting real crazy,” in that PO Cardona stated if, “she didn’t make any sense, if she wanted to indicate something to me she would have opened the door.” PO Cardona explained that § 87(2)(b) refusal to open the door constituted irrational behavior. § 87(2)(b) § 87(2)(b) slipped numerous housing complaint reports under her door and explained that she had an ongoing dispute with § 87(2)(b) § 87(2)(b) who § 87(2)(b) reported to Housing Management. PO Bibby and PO Cardona also heard in the background a male voice (whom PO Bibby and PO Cardona later determined to be § 87(2)(b) § 87(2)(b) instructing § 87(2)(b) to call One Police Plaza and the Police Commissioner. PO Bibby stated that § 87(2)(b) had a normal conversation with § 87(2)(b) while PO Cardona described the conversation between § 87(2)(b) and § 87(2)(b) as “gibbering” and argumentative. PO Bibby and PO

Cardona waited for about 30 minutes and PO Bibby called Sgt. Stilianesis to the scene because they did not know what to do.

PO Bibby and PO Cardona informed Sgt. Stilianesis that § 87(2)(b) refused to open the door and that they need to interview her. Sgt. Stilianesis attempted to convince § 87(2)(b) to exit her apartment and she still refused to open the door. § 87(2)(b) continued to slip reports under the door and was still afraid. A few minutes later § 87(2)(b) exited the apartment § 87(2)(b). Sgt. Stilianesis asked § 87(2)(b) if he knew § 87(2)(b) and he acknowledged that she was his wife. § 87(2)(b) said that he was on his way to work and Sgt. Stilianesis instructed him to stand-by. PO Bibby stated that while § 87(2)(b) stood in front of the apartment, he instructed § 87(2)(b) to open the apartment door and called the apartment. According to PO Bibby § 87(2)(b) did not respond to § 87(2)(b) instructions. According to PO Cardona § 87(2)(b) was completely uncooperative and refused to answer Sgt. Stilianesis' questions. However, PO Cardona stated that § 87(2)(b) was uncooperative. Sgt. Stilianesis proceeded to ask § 87(2)(b) if she was on medication, although neither § 87(2)(b) nor § 87(2)(b) acknowledged that § 87(2)(b) consumed any medication. At this point Sgt. Stilianesis knocked on the door, § 87(2)(b) still did not open the door and PO Bibby and PO Cardona did not hear anything in the apartment. PO Cardona stated that the resident across § 87(2)(b) door stuck her head out and said, "she is crazy." PO Cardona stated that Sgt. Stilianesis told § 87(2)(b) that he would make a forced entry if she did not open the apartment door, although PO Cardona was not sure when Sgt. Stilianesis made this threat. Sgt. Stilianesis then instructed PO Bibby to escort § 87(2)(b) to her RMP parked in front of § 87(2)(b). Sgt. Stilianesis called ESU at this point to make an entry. PO Bibby did not hear any banging inside the apartment and § 87(2)(b) did not indicate that she was ever going to hurt herself or anyone else.

As PO Bibby exited the building § 87(2)(b) who was not in handcuffs, pointed to § 87(2)(b) and the apartment windows were visible from where PO Bibby parked the RMP. § 87(2)(b) commented that one of the apartment windows was open, but PO Bibby did not radio or notify Sgt. Stilianesis that one of the windows near a ledge was open because it did not occur to her that § 87(2)(b) escaped. § 87(2)(b) did not acknowledge that § 87(2)(b) exited the apartment. PO Bibby did not see § 87(2)(b) exit the apartment through the window. When ESU entered it was determined that § 87(2)(b) escaped the apartment. The incident lasted about one hour and within that hour Sgt. Stilianesis was there for about 15 minutes until he decided to make an entry. (Enclosures 20 A-C, 24 A-B)

Sgt. Stilianesis

Sgt. Stilianesis noted in his memo book, "1335 to § 87(2)(b) request ESU for entry for EDP/Arrest of § 87(2)(b) for § 87(2)(b). The Sprint Report indicates that Sgt. Stilianesis stated at around 2:06 p.m. "poss[ibly] EDP not sure if armed---poss[ibly] barricated (sic) refuse to open door." Sgt. Stilianesis was interviewed on April 12, 2004. (Enclosure 21 A-C, 29 A-D)

On January 20, 2004 at around 1:30 Sgt. Stilianesis interviewed PO Bibby and PO Cardona and they informed him that § 87(2)(b) refused to open the door. PO Bibby and PO Cardona did not indicate to Sgt. Stilianesis that § 87(2)(b) was an EDP at this point and he did not have reason to believe that she was. When Sgt. Stilianesis went to § 87(2)(b) he knocked on her door and § 87(2)(b) refused to open her apartment. Sgt. Stilianesis stated that he did not recall what he said to § 87(2)(b) but maintained that he wanted her to open the door to get her version of the event. Sgt. Stilianesis conversed with § 87(2)(b) for about 15 minutes until he determined that she was an EDP. Sgt. Stilianesis heard a banging coming from inside the apartment, although he couldn't describe the banging or determine definitively if it came from her apartment. Sgt. Stilianesis described § 87(2)(b) as "erratic" in that she did not open the door, was screaming, but Sgt. Stilianesis couldn't explain what § 87(2)(b) was screaming. At one point Sgt. Stilianesis heard § 87(2)(b) instructing § 87(2)(b) to call 1 Police Plaza, the Police Commissioner, and the Mayor. § 87(2)(b) also slipped under the door housing complaint reports and police reports, to inform Sgt. Stilianesis that she has had an ongoing dispute with § 87(2)(b). Sgt. Stilianesis asked § 87(2)(b) if she was on medication and if she was feeling well, and she continued to yell, "go away, I'm not opening the door." Sgt. Stilianesis maintained that § 87(2)(b) screams, refusal to open the door, throwing things in the apartment, and sliding papers under the door

constituted erratic behavior. Sgt. Stilianesis stated that he does not know if he ever threatened to break the door down.

When § 87(2)(b) exited the apartment in a school safety uniform he told § 87(2)(b) to lock the door and he walked past the officers. Sgt. Stilianesis asked § 87(2)(b) what transpired inside the apartment and what was his relation to § 87(2)(b) but § 87(2)(b) said that he didn't know, refused to cooperate, and said that he had to go to work. Sgt. Stilianesis then instructed PO Bibby to escort § 87(2)(b) to the RMP and to observe the exterior of the building. Sgt. Stilianesis stated that he arrested § 87(2)(b) because he was off-duty and he was involved in the incident, which needed to be further investigated by someone higher than him. Sgt. Stilianesis did not hear § 87(2)(b) or any noises coming from the apartment and at this point he became concerned for § 87(2)(b) safety, although § 87(2)(b) and § 87(2)(b) never indicated that § 87(2)(b) would harm herself or anyone else. Sgt. Stilianesis denied threatening to break § 87(2)(b) door down. Sgt. Stilianesis never received a call from PO Bibby that § 87(2)(b) escaped.

Sgt. Stilianesis classified § 87(2)(b) as an EDP and called Capt. Britton, Capt. Ruben, and ESU to the scene but did not call EMS at this point. ESU made a forced entry into the apartment under, at which point it was discovered that § 87(2)(b) escaped. Sgt. Stilianesis stated that when he entered the apartment he did not determine that § 87(2)(b) was going to be arrested. Sgt. Stilianesis then decided, with Capt. Ruben and Capt. Britton's consent, to arrest § 87(2)(b) when it was discovered that § 87(2)(b) was not in the apartment. Sgt. Stilianesis assumed that § 87(2)(b) acted as a distraction for § 87(2)(b) when he exited that apartment. § 87(2)(b) was charged with § 87(2)(a) 160.50
(Enclosure 22 A-C)

PO Cracchiolo

PO Cracchiolo was Sgt. Stilianesis operator on January 20, 2004. PO Cracchiolo was interviewed on April 21, 2004 § 87(2)(g). (Enclosures 26 A-B)

Capt. Britton and Capt. Ruben

Capt. Britton and Capt. Ruben were interviewed on April 19, 2004 § 87(2)(g). On January 20, 2004 at around 2:00 p.m. Capt. Britton was at the command when Sgt. Stilianesis called to inform him that an EDP was barricaded herself in her apartment. As Capt. Britton left the command the desk sergeant, Sgt. Houser, told him that a female was on the phone that was calling for the police because there were police officers outside her door trying to enter her apartment. Capt. Ruben was also on his way out. Capt. Britton told Sgt. Houser to inform the female that the individuals at her door were officers. Capt. Britton knew that the individual that called the command was the same female that had barricaded herself in the apartment.

Upon arrival Capt. Britton and Capt. Ruben spoke with Sgt. Stilianesis, although Capt. Ruben and Capt. Britton did not interview any civilians. ESU was on the scene at this point, but neither Capt. Ruben nor Capt. Britton could recall if EMS was on the scene as well. Sgt. Stilianesis informed Capt. Britton and Capt. Ruben that a resident complained that § 87(2)(b) had threatened her with a stick. Sgt. Stilianesis told Capt. Britton and Capt. Ruben that § 87(2)(b) § 87(2)(b), had already exited the apartment and yelled at § 87(2)(b) not to open the door. Sgt. Stilianesis also said that he had not heard from § 87(2)(b) since § 87(2)(b) exited the apartment. Capt. Britton stated that Sgt. Stilianesis told him that § 87(2)(b) was acting "erratically" in that she was "carrying on" that she wanted the police to respond, even though it was the police who were at the door. According to Capt. Britton and Capt. Ruben Sgt. Stilianesis stated that § 87(2)(b) was "running around the apartment, screaming 'I'm not opening the door, I didn't do nothing, I'm not going to jail' as Sgt. Stilianesis told her that he was not going to take her to jail." Sgt. Stilianesis did not indicate to Capt. Ruben or Capt. Britton how long this exchange went on for. ESU also knocked on the door and received no response. ESU proceeded to remove the peep hole from the steel door and ESU informed Capt. Britton and Capt. Ruben, who were standing in the hallway, that they did not see anyone in the apartment and saw windows opened with wind blowing through the curtains. Capt. Britton and Capt. Ruben decided to enter the apartment based on Sgt. Stilianesis' claim that § 87(2)(b) was acting irrationally. Capt. Britton stated that he had not yet decided to arrest § 87(2)(b) because his investigation was still pending. Yet, Capt. Ruben stated that even if § 87(2)(b)

was not an EDP, he still would have had the authority to enter her apartment on an open complaint. When ESU removed the door Capt. Britton and Capt. Ruben entered the apartment and determined that § 87(2)(b) escaped, possibly through the bedroom window. The window was completely open and there was a ledge close enough to the ground for an individual to jump off. Later that evening § 87(2)(b) called PSA 4 to inform the command that she was at a friend's apartment. Capt. Ruben stated that he sent a sergeant to the friend's apartment, but § 87(2)(b) was not there.

Although neither Capt. Britton nor Capt. Ruben interviewed § 87(2)(b), § 87(2)(b) was arrested for § 87(2)(b). Capt. Britton and Capt. Ruben explained that § 87(2)(b) refused to answer Sgt. Stilianesis' inquiries about § 87(2)(b) mental and health conditions. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) (Enclosures 27 A-B, 28 A-B)

Police Documents

§ 87(2)(b) **Arrest Report and OLBS** § 87(2)(b)

Detectives from the 7th Precinct arrested § 87(2)(b) at the 7th Precinct detective's squad on January 26, 2004. § 87(2)(b) was charged with § 87(2)(a) 160.50. (Enclosures 37, 38 A-B)

ESU Truck Report 497

Dt. Masucci of ESU truck 1 responded to the location and indicated in the narrative, "upon arrival pet personnel advised one female EDP inside location. Crew tried to engage in conversation w/ female-neg results crew used rabbit tool to gain entry. Searched apt neg results." (Enclosure 30)

Criminal History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

CCRB History

Sgt. Stilianesis and Capt. Ruben have no prior substantiated CCRB complaints. Capt. Britton received charges in 1984 pursuant to a substantiated CCRB complaint regarding the use of physical force and an abuse of authority allegation. (Enclosures 6, 7, 8)

Conclusions and Recommendations

Undisputed Facts

On January 20, 2004 § 87(2)(b) got into a verbal dispute with § 87(2)(b) in front of § 87(2)(b) apartment door. § 87(2)(b) returned to her apartment on the § 87(2)(b) floor, called 911, and reported that § 87(2)(b) had threatened to strike her with a pipe. § 87(2)(g)

§ 87(2)(b) Cardona and PO Bibby first responded to the location, interviewed § 87(2)(b) and then spoke with § 87(2)(b) through the apartment door for approximately 20 minutes. PO Bibby and PO Cardona asked § 87(2)(b) to open her door, § 87(2)(b) refused to open her apartment door, and explained to them that she has had an ongoing dispute with § 87(2)(b) § 87(2)(b) also expressed fear of being arrested and then called 911 to file a cross-complaint against § 87(2)(b) § 87(2)(b) common-law husband, told § 87(2)(b) not to open the door and instructed her to call One Police Plaza and the Commissioner's office. PO Bibby called Sgt. Stilianesis, who then attempted to get § 87(2)(b) to open her apartment door, as § 87(2)(b) slipped under her apartment door numerous housing complaint reports against § 87(2)(b) § 87(2)(b) Sgt. Stilianesis did not know what exactly § 87(2)(b) allegedly menaced § 87(2)(b) with. § 87(2)(b) § 87(2)(b) exited the apartment § 87(2)(b) told § 87(2)(b) to lock the door, at which point Sgt. Stilianesis detained § 87(2)(b) Sgt. Stilianesis asked § 87(2)(b) if § 87(2)(b) was on any medications and why she refused to open the

door. Sgt. Stilianesis then arrested § 87(2)(b) for § 87(2) § 87(2)(b) apartment then went silent, at which point Sgt. Stilianesis called ESU, Capt. Britton, and Capt. Ruben down to the location. Sgt. Stilianesis informed Capt. Ruben and Capt. Britton that § 87(2)(b) was acting like an EDP, although did not articulate in what way § 87(2)(b) posed a danger to herself or others. § 87(2)(b) never provided a threat to herself or others. ESU removed the peephole, saw no one in the apartment, and Capt. Ruben and Capt. Britton ordered ESU to forcibly remove the apartment door based on the fact that Sgt. Stilianesis informed Capt. Britton and Capt. Ruben that § 87(2)(b) was an EDP. ESU determined that § 87(2)(b) was not in her apartment. § 87(2)(b)

§ 87(2)(b) called PSA 4 later that evening to inquire about § 87(2)(b) arrest, and she informed the PSA that she was at § 87(2)(b) § 87(2)(b) complaint was referred to the 7th Precinct Detective's squad and detectives from the 7th precinct then arrested § 87(2)(b) on January 26, 2004. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(g)]

Facts in dispute

§ 87(2)(g)

Credibility Analysis

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

[REDACTED]

Allegation A: Sgt. Christopher Stilianesis arrested § 87(2)(b)

According to Sgt. Stilianesis § 87(2)(b) § 87(2)(b) is a civilian member of the service, obstructed the investigation into § 87(2)(b) § 87(2)(g) complaint against § 87(2)(b) § 87(2)(g)

[REDACTED] § 87(2)(b)

According to Police Patrol Guide Procedure 206-07 on cause for suspension or modified assignment, “a ranking officer...must suspend a member of the service when the member: (a) refuses to perform assigned duties at roll call or during tour of duty; (b) refuses an order or a ranking member to answer question specifically directly or narrowly related to the performance of official duties.” P.G 206-07 further stipulates that a “captain or above may place a uniformed member of the service on modified assignment or suspension,” although civilian members of the service are not eligible for modified duties. P.G 206-07 explains that the decision to suspend a civilian member of the services rests on the duty captain. § 87(2)(b) explained that Capt. Britton suspended him at the scene. § 87(2)(b)

[REDACTED]

In *New York Search and Seizure* Kamins explains: “when an officer takes additional intrusive action beyond the drawing of his weapon that courts may find an arrest has taken place...it must be remembered that any conduct which is intrusive to the extent that a reasonable, innocent person would believe himself to be under arrest constitutes an arrest” (199-200). Upon exiting the apartment § 87(2)(b) Sgt. Stilianesis instructed PO Bibby to escort § 87(2)(b) to the RMP and § 87(2)(b) was not free to leave. Sgt. Stilianesis based this form of de facto arrest on his belief that § 87(2)(b) violated penal law 195.05 which stipulates: “a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function...by means of intimidation, physical force or interference.”

According to Kamins, “a police officer’s authority to make a warrantless arrest is provided by Criminal Procedure Law 140.01. Under that section, an officer may arrest a person for any crime when the officer has reasonable cause to believe that such person has committed such crime” (201). Sgt. Stilianesis provided two reasons why he arrested § 87(2)(b) one, that § 87(2)(b) was a § 87(2)(b) and was obliged to open the door; two, § 87(2)(b) colluded with § 87(2)(b) and provided a diversion for her to escape. § 87(2)(g)

According to PO Bibby, § 87(2)(b) called § 87(2)(b) from the exterior of the apartment in an attempt to get her to exit § 87(2)(g)

[REDACTED]

[REDACTED], Kamins explains, “although

flight...will not constitute probable cause for an arrest, where indicia of a criminal activity already exists, flight becomes an important factor” (77). § 87(2)(g)

Allegation B: Captain Edward Britton authorized the entry into § 87(2)(b)
New York, NY.

Allegation C: Captain Steven Ruben authorized the entry into § 87(2)(b)
New York, NY.

In OATH case *PD. v. Grogan (Disciplinary Case No. 75073/99)* the court affirmed an officer’s right to forcibly enter the premises of Viviane Brown under the doctrine of exigency. “Not all warrantless entries into private premises are prohibited by law...thus the determinative question is whether the facts known to the Respondent at the time of the warrantless entry were sufficient to establish probable cause for Brown’s arrest and exigent circumstances to excuse his failure to obtain a warrant.” The court found that Sgt. Grogan had probable cause to arrest Viviane Brown in that “the complainants account of an assault with an unknown weapon was corroborated by the physical injuries observed on her face and neck by all the responding officers...moreover the complainant’s account of Brown’s irrational behavior was corroborated by Brown’s deportment at the scene.” The court believed that the exigency existed in the fact that “Brown’s wheelchair-bound husband was present in the apartment and the Respondent’s attempts to verify his safety by being permitted to speak to him through the locked apartment door were disregarded by Brown. In fact, Brown’s reported incoherent shouts, persisted rantings (sic) throughout the apartment, and refusal to open the door were unrefuted (sic) at trial.”

According to *PD. v. Grogan* officers can enter based on an exigency where probable cause that a crime was just committed and eminent danger to human life exists. Kamins measures probable cause “by the facts known to the arresting officer which relate to the crime for which the defendant is arrested” (41). § 87(2)(g)

§ 87(2)(g) Kamins also explains the entry “must not primarily be motivated by an intent to arrest and seize evidence.” § 87(2)(g)

§ 87(2)(g) Kamins stipulates that in exigent circumstances “there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or property to be searched.” § 87(2)(g)

§ 87(2)(g) Kamins notes that “the police themselves cannot, by their own conduct, create the appearance of an exigency. Thus, where the police do not possess a reasonable belief that a suspect will escape if not swiftly apprehended, they cannot...create a foreseeable emergency by knocking on the door and hearing the sound of someone running in the apartment” (217). § 87(2)(g)

“Where the police threaten to break the door of defendant’s apartment unless he comes out, the defendant’s decision to leave the apartment cannot be considered a voluntary act” (213). § 87(2)(g)

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

Investigator:	Date:
Supervisor:	Date:
Reviewed by:	Date:
Reviewed by:	Date: